

REMARKS

At the time of the Office Action dated March 24, 2005, claims 1-13 were pending and rejected in this application. Claim 1 has been amended to clarify the invention recited in claim 1. Applicant submits that the present Amendment does not generate any new matter issue.

CLAIMS 1-9 AND 11-13 ARE REJECTED UNDER 35 U.S.C. § 102 AS BEING ANTICIPATED BY REID ET AL., U.S. PATENT NO. 6,182,226 (HEREINAFTER REID)

On pages 2-9 of the Office Action, the Examiner asserted that Reid discloses the claimed invention. This rejection is respectfully traversed.

The factual determination of anticipation under 35 U.S.C. § 102 requires the identical disclosure of each element of a claimed invention in a single reference. As part of this analysis, the Examiner must (a) identify the elements of the claims, (b) determine the meaning of the elements in light of the specification and prosecution history, and (c) identify corresponding elements disclosed in the allegedly anticipating reference. That burden has not been entirely discharged. Moreover, the Examiner did not clearly explain the pertinence of Hill. In this regard, the Examiner's rejection under 35 U.S.C. § 102 also fails to comply with 37 C.F.R. § 1.104(c).¹

¹ 37 C.F.R. § 1.104(c) provides:

In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable.

On page 3 of the Office Action, with regard to the clause in claim 1 reciting "a state machine pre-configured . . .," the Examiner merely repeated the claim language word-for-word and asserted that these features are identically disclosed in column 5, line 58 through column 6, line 40. Applicant notes that a multitude of features are recited in this clause. The recited features include, in part: (i) a state machine; (ii) a plurality of states; (iii) a restricting state; (iv) a plurality of request to access an internal network; and (v) an access state. The Examiner's statement of the rejection, however, fails to specifically identify what element in Reid identically discloses each of these recited features. By not specifically identifying these features, the Examiner has failed to establish a *prima facie* case of anticipation.

Independent Claim 1

As evident from the plain language of claim 1, a plurality of requests to access the internal network are required before the state machine transitions from a restricting state to an access state. In contrast, Reid discusses that several nodes in a decision tree are used when making a decision about a connection (column 5, lines 64-67). Reid further states that "[e]ach node is compared against an incoming connection request and you determine whether the connection is allowed or denied based on the results of the node comparison" (column 6, lines 5-8). Thus, a connection decision is made by Reid based upon a single incoming connection request, and not a plurality of requests, as recited in claim 1.

The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.

Applicant further notes that claim 1 has been amended to clarify that the packet filter does not respond to an external network upon receiving any request from the external network to access the internal network when the state machine is in a restricting state. On page 2 of the Office Action, the Examiner asserted that this feature of the packet filter, as previously presented in claim 1, is identically disclosed in column 12, lines 56-59 and column 15, lines 61-63 of Reid. Column 12, lines 56-59 states that a failure code is not returned if a password was not accepted, and Reid states in column 15, lines 61-64 that a ping is responded to "if ping response is enabled for the region from which the packet came." This teaching, however, is not comparable to the packet filter not responding to any request from an external network when the state machine is in a restrict state. The conditions for responding (i.e., password accepted, region enabled) discussed by Reid are found in the current connection request, whereas the claimed state condition of the state machine is based on information contained in a prior connection request. Therefore, Reid further fails to identically disclose the claimed invention, as recited in claim 1, within the meaning of 35 U.S.C. § 102.

Independent Claims 7-9 and 11-13

Independent method claims 7-9 and machine readable storage claims 11-13 each introduce the concept of using multiple access requests to cause a stealth firewall to transition from a transitional state into a final access state, until which time a response to the access requests is not provided and/or access is not permitted.

Claims 7 and 11 specifically recite that "an access request" and "a further access request" are used to determine whether or not the state machine transitions into a final state. On pages 4 and 7 (respectively for claims 7 and 11) of the Office Action, the Examiner cited column 13, lines 31-67 as disclosing the "further access request." A review of this cited passage does not reveal any teaching of a second request, which in addition to a first request, is used to transition the state machine into a final state. Instead, column 13, lines 31-67 appears to be a description of each value that is determined by an ACL (Access Control Language) of a firewall for each connection.

Claims 8 and 12 recite "identifying access request parameter in said received access requests" and "performing state transitions in a state machine ... based upon identifying particular ones of said identified access request parameters." Similar to the language found in claims 7 and 11, this claim language recited in claims 8 and 12 is directed to using information from multiple requests to transition the state machine. This concept, however, is neither taught nor suggested by Reid. On pages 5 and 8 of the Office Action, the Examiner cited column 5, lines 58-63 and column 7, lines 34-51 and asserted that these citations disclose the above-identified claimed limitations. The citation in column 5 only regards the use of access rules "that matches the characteristics of the connection request [] to determine whether the connection should be allowed or denied." Thus, as already noted above, Reid teaches that information contained in a single connection request is used to determine access request. The citation in column 7 is only a list of various access rules that can be employed and fails to discuss using information in multiple connection requests to transition a state machine into a new state.

Claims 9 and 13 recite that the "state machine transitioning through a plurality of states based upon a sequence of access request parameters identified in received access requests from a single network device." Again, similar to claims 7-8 and 12-13, claims 9 and 13 using request parameter identified in multiple requests to transition the state machine. To teach this feature, the Examiner cited column 16, lines 20-65 of Reid. This cited section of Reid refers to Fig. 5 and is entitled "Region Determination Processing." As evident from Fig. 5 and from the cited language, request parameters identified in a plurality of access requests are not obtained. Instead, Reid states that information from a single request is used to determine whether the packet is forwarded or not.

Thus, for the reasons stated above, Applicant submits that the Examiner has failed to establish a prima facie case of anticipation within the meaning of 35 U.S.C. § 102. Therefore, Applicant respectfully solicits withdrawal of the rejection of claims 1-9 and 11-13 under 35 U.S.C. § 102 for anticipation based upon Reid.

**CLAIM 10 IS REJECTED UNDER 35 U.S.C. § 102 FOR ANTICIPATION BASED UPON
ROTHERMAL, ET AL.,, U.S. PATENT NO. 6,678,827 (HEREINAFTER ROTHERMAL)**

On pages 10 and 11 of the Office Action, the Examiner asserted that Rothermal discloses the claimed invention. This rejection is respectfully traversed.

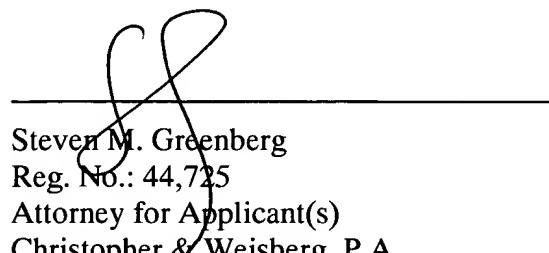
Claim 10 recites that a comparator causing a packet filter to permit access where "said hashed password and timestamp matches said hashed result." Upon reviewing the Examiner's cited passages within Rothermal, Applicant notes that Rothermal fails to teach using the comparison of a hashed result to a hashed password in addition to a timestamp. Rothermal discusses the use of hashed passwords and separately discusses the use of a time stamp, but Rothermal fails to teach or suggest using a combination of hashed password and timestamp. Thus, Applicant submits that the Examiner has failed to establish a *prima facie* case of anticipation within the meaning of 35 U.S.C. § 102. Therefore, Applicant respectfully solicits withdrawal of the rejection of claim 10 under 35 U.S.C. § 102 for anticipation based upon Rothermal.

Applicant has made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. However, Applicant invites the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing remarks, Applicant hereby respectfully requests reconsideration and prompt allowance of the pending claims.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Respectfully submitted,

Date: June 13, 2005


Steven M. Greenberg
Reg. No.: 44,725
Attorney for Applicant(s)
Christopher & Weisberg, P.A.
200 East Las Olas Boulevard, Suite 2040
Fort Lauderdale, Florida 33301
Customer No. 46320
Tel: (954) 828-1488
Fax: (954) 828-9122

36362